

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

PATRICIA ANN ARPS,)	
)	
Plaintiff)	
)	
vs.)	No. CIV-05-892-C
)	
EDDIE WARRIOR CORRECTIONAL)	
CENTER, et al.,)	
)	
Defendants)	

MEMORANDUM OPINION AND ORDER

Plaintiff, a state prisoner appearing pro se, filed this lawsuit for damages based on negligence. She attempts to invoke federal jurisdiction pursuant to 42 U.S.C. § 1983. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Bana Roberts for initial proceedings, and Judge Roberts entered a Report and Recommendation on March 27, 2006, recommending dismissal, with prejudice, of all federal claims, and dismissal, without prejudice, of all state law claims. Plaintiff timely objected, and the Court therefore considers the matter de novo.

Plaintiff's objection is primarily to the Magistrate Judge's conclusion that no amendment should be permitted. Plaintiff generally argues the merits of her various claims and in support of jurisdiction over various defendants. However, Judge Roberts, in her exhaustive and well-reasoned Report and Recommendation, accurately concludes that, even giving Plaintiff the benefit of all reasonable inferences and construction, no federal claim is

or can be stated. The Court agrees that none of the facts alleged in support of Plaintiff's claim for recovery can reasonably be construed as constitutional violations, and could not be even if Plaintiff were given leave to amend.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted, in its entirety. For the reasons stated therein, Plaintiff's Complaint, insofar as it can be construed as alleging civil rights violations, is dismissed with prejudice for failure to state a claim for which relief can be granted. This dismissal counts as a "strike" pursuant to 28 U.S.C. § 1915(g). The Court declines to exercise supplemental jurisdiction over Plaintiff's state law tort claims, and these are dismissed without prejudice.

IT IS SO ORDERED this 18th day of May, 2006.



ROBIN J. CAUTHRON
United States District Judge